

IN THE WASHINGTON STATE
SUPREME COURT

FORM STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2008 DEC -4 AM 8:07
BY RONALD R. CARPENTER
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STATE OF WASHINGTON)

Respondent,)

v.)

Richard Henry Mutch)

(your name))

Appellant.)

No. 82029-5

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Richard Mutch, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1
SAME CRIMINAL CONDUCT

ADULT SENTENCING GUIDELINES MANUAL 1996, RCW 9.94A.400(1)(a): The court made no finding as to whether or not: "...some or all of the current offenses encompass the SAME CRIMINAL CONDUCT..." (Which would have reduced my Offender Scoring to well under the maximum of 9 points). At a "re-sentencing hearing" held on 13 Nov. 2008 your appellant Lawfully asked the court to make a Finding of "same criminal conduct."
Continued on page 2: (See: RCW 9.94A.360(6)(a) "...shall be counted as one offense...").

Additional Ground 2
THREE STRIKES (POAA)

In the Sentencing Guidelines Manual, for the year 1996, the Sentencing Guidelines Commission held, at page I-30 that the POAA "became effective December 2, 1993." However, we see in Laws of Washington, 1994, Volume 1 at page [ii] 5. EFFECTIVE DATES OF LAWS (a) that the
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If there are additional grounds, a brief summary is attached to this statement.

Date: 1 December 2008

Signature: Richard Mutch

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SAME CRIMINAL CONDUCT

The court refused to do so. Even though the alleged crime involved the same "victim," same place, and a short time frame. Certainly the 2nd^o kidnapping should have been found to encompass the **same criminal conduct**. However, because **same criminal conduct** is an element of Fact, and not necessarily Law, I believe this Fact must be determined by a jury. See RCW 9A.360(6)(a) "...shall be counted as one offense,..."

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THREE STRIKES (POAA)

Secretary of State held that Initiative 593 (POAA) became effective on June 9, 1994. Likewise, State v. Ball, 127 Wn.App 956, 958, 113 P.3d 520(2005) held that: "The legislature enacted the POAA in 1994. Laws of 1994, ch. 1, §§1-3." If this Court finds that the POAA did not become effective until June 9, 1994, then I was further given an unlawful sentence in 1994 which has CAUSED me UNTOLD GRIEF: "A defendant is subject to the penalty in place the day the crime was committed." State v. Pillatos, 159 Wn.2d 459, 475[14] ¶ 30, 150 P.3d 1130(2007). My crime was allegedly committed on 3 February 1994! Thereby State v. Ball supra at 957 disclaims any use of the POAA as notice of an Exceptional Sentence: "We hold that the POAA is neither an exceptional sentencing statute subject to a Blakely analysis nor is it an enhanced sentence statute." And, I should not have been given a Three Strikes sentence on 16 December 1994. This issues was raised at the SHAM resentencing hearing of 13 November 2008. **END STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW.**

NOTE: The sham, and unlawful resentencing hearing of 13 Nov. 2008 where, again, I received the same unlawful exceptional sentence of 400 months: State v. Tilli, 148 Wn.2d 350 358, & State v. Pryor, 115 Wn.2d 445, 456 was undertaken with the sole purpose being an attempt by the Whatcom County CHILD MOLESTING Prosecutor, David McEachran, to "set me up" (in the Whatcom County Jail) to get another strikeable offense. Thereby, once again, "striking me out." I beseech this Court to provide me with U.S. Marshal protection when this Court remands the matter back to the Whatcom County Superior Court. **IT IS SO PRAYED.**

Respectfully submitted by:

/s/: Richard Mutch
Richard Mutch

Dated this: 1st day of December 2008